

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 8 and 9 are requested to be cancelled without prejudice or disclaimer.

Claim 1 is currently being amended. Support for the amendment to claim 1 can be found at least in original claim 8 and in the specification in paragraph [0013]. No new matter is being added.

This amendment changes and deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 2, 5, 6, 11, 12, 14 and 15 are now pending in this application.

***Rejections under 35 U.S.C. §§ 102 and 103***

Claims 1, 2, 5, 6, 8, 9, 14 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,167,575 to Nichani et al. (“Nichani”). Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nichani in view U.S. Patent No. 7,110,569 to Brodsky et al. (“Brodsky”). Applicant respectfully traverses these rejections for at least the following reasons.

Independent claim 1, as amended, recites:

A condition analysis apparatus comprising:

a three-dimensional sensor for measuring, at a plurality of sampling points, sampling-point-moves in a height direction of an object existing in a target area; and

*area definition means for defining an area where a plurality of the sampling-point-moves are in generally a same phase, wherein the area definition means searches a specific area for sampling points representing the sampling-point-moves in the same specific type of phase, forms a group of the sampling points representing the sampling-point-moves in generally the*

*same phase based on search results of the searching, and defines the formed group of sampling points as an area where the sampling-point-moves in generally the same phase are occurring;*

    said three-dimensional sensor comprising:

        a projection device for projecting a light pattern on the target area;

        an image capturing apparatus for capturing an image of the target area while the light pattern is projected thereon, said image capturing apparatus being installed distanced from said projection device; and

        measurement means for measuring shifts of the pattern on the captured images,

    wherein sampling-point-moves in the height direction of the object are measured at the plurality of points based on the shifts of the pattern measured.

Nichani and Brodsky fail to disclose at least the above italicized features of claim 1 of an “area definition means for defining an area where a plurality of the sampling-point-moves are in generally a same phase, wherein the area definition means searches a specific area for sampling points representing the sampling-point-moves in the same specific type of phase, forms a group of the sampling points representing the sampling-point-moves in generally the same phase based on search results of the searching, and defines the formed group of sampling points as an area where the sampling-point-moves in generally the same phase are occurring.”

Nichani discloses a video safety detector with projected pattern (title). The system includes a pattern projector 108 which projects a desired pattern on a scene 103 to be monitored for object intrusion (col. 7, lines 46-49), and a camera 10 (See FIG. 2). Nichani discloses that when an intruder enters the perimeter portions the projected pattern will distort based on the heights at which the light hits the intruder relative to the plane of the background (col. 8, lines 6-9). Nichani further discloses two algorithms to use with its system, a geometric pattern finding tool as diagrammed in FIG. 3, or a filtering algorithm as diagrammed in FIG. 4 (col. 8, lines 57-60).

Nichani, however, nowhere discloses the area definition means of claim 1 for defining an area where a plurality of the sampling-point-moves are in generally a same phase, as specifically recited in claim 1. The Patent Office cites to specific sections of Nichani for

disclosing the area definition means of claim 1, and for disclosing further features regarding the area definition means recited in claim 8, which have now been incorporated into claim 1. Nichani, however, does not disclose in the cited sections, or anywhere else, the area definition means of claim 1, which is for defining an area where a plurality of the sampling-point-moves are in generally a same phase. Nichani fails to disclose this feature of claim 1, and fails to anticipate or render that claim obvious.

Brodsky fails to cure the deficiencies of Nichani. The Patent Office states on page 4 of the Office Action: "Brodsky, however, discloses an area definition means defines two or more areas in different phases." Applicants respectfully disagree. Nowhere does Brodsky disclose an area definition means which defines two or more areas in different phases. Thus, even if Nichani and Brodsky were combined, the combination would not include all the features of claim 1.

The dependent claims all depend from independent claim 1, either directly or indirectly, and are patentable for at least the same reasons, as well as for other patentable features recited therein.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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